

MEMORANDUM OF LAW

DATE: June 10, 1992

TO: Charles G. Abdelnour, City Clerk

FROM: City Attorney

SUBJECT: Contribution Limits in San Diego Municipal Code
Section 27.2941

By memorandum dated June 4, 1992, you ask for an interpretation of San Diego Municipal Code ("SDMC") section 27.2941, which is part of the San Diego Municipal Election Campaign Control Ordinance. You specifically ask two questions as follows:

1. Does Section 27.2941 prohibit an individual who contributes the maximum \$250 to a Mayoral run-off candidate from also contributing to any other committee (or committees) that uses that contribution to make independent expenditures either to support the candidate or to oppose the rival candidate?
2. Does Section 27.2941 prohibit an individual who contributes the maximum \$250 to a committee making independent expenditures in a Mayoral run-off race from contributing to any other committee making similar independent expenditures to influence the same result?

ANALYSIS

SDMC section 27.2941 reads in relevant part as follows:

(a) No person other than a candidate shall make, and no campaign treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person with respect to a single election in support of or opposition to such candidate, including contributions to all committees supporting or opposing such candidate, to exceed two hundred and fifty dollars (\$250). (Emphasis added.)

In answer to your questions, we first emphasize that we are interpreting the ordinance as it pertains to a two-candidate race (a Mayoral run-off). We point out, but do not hereby opine, that the result may differ in a multi-candidate race.

There is no case law or legislative history interpretating the ordinance as applied to the facts presented. Research of prior City Attorney opinions on the City's Municipal Election Campaign Control Ordinance ("Ordinance") likewise yields no written opinion answering the questions you raise in your efficient memorandum. Under the rules of statutory construction, however, when the language of an ordinance is clear and unambiguous, no extrinsic aids are required to interpret it. See, *Swift v. County of Placer*, 153 Cal. App. 3d 209, 213 (1984); 2A Sutherland, *Statutes and Statutory Construction*, sections 45.02; 46.01 (5th ed. 1992).

In the present case, SDMC section 27.2941(a) is clear and unambiguous on its face. Therefore, we need not look beyond the ordinance itself to discern its meaning. The ordinance clearly prohibits a person from contributing more than \$250 in support of or opposition to a single candidate in a single election. The language underlined in the above-quoted SDMC section shows that, when it adopted the ordinance, the Council contemplated the possibility that more than one committee may be formed to support or oppose a single candidate in a single election. All contributions to all "committees," as defined by the ordinance, are clearly covered. Though not binding precedent, we note that our interpretation imposing this limitation is consistent with San Diego District Attorney Opinion No. 80-2, which reached the same conclusion when interpreting the mirrored language of the County's Campaign Limitation Ordinance. See attached Opinion No. 80-2 at point 4.

It is worth noting that the Council adopted a broad definition of "committee" to include any "person" who receives \$500 or more in contributions in a single calendar year. SDMC section 27.2903(d)(1). The term "person" is also broadly defined in the ordinance to include individuals as well as organizations and other persons acting in concert. SDMC section 27.2903(m). Thus, for this ordinance at least, an individual is treated as a "committee" if he or she receives at least \$500 in political contributions. The entire ordinance is clearly drafted as broadly as possible to prohibit contributions exceeding \$250 made to "committees" (which, as noted above, includes individuals) in support of or opposition to a particular candidate. In a two-candidate race, the ordinance not only prohibits an individual from contributing to one or more committees that support one

candidate, if the individual's total contributions exceed \$250/election for that candidate; but it also prohibits the same individual from making contributions to oppose a rival candidate, because the effect is to support a single candidate to whom the individual has already given \$250.

The prohibition can be easily understood in the following illustration. If Contributor A contributes \$250 to Candidate Y or to Candidate Y's controlled committee, Contributor A could not also lawfully contribute \$250 to an independent expenditure committee (or to another individual who will make independent expenditures) to support Candidate Y. Likewise, in a two-candidate race (Candidate Y versus Candidate Z), Contributor A could not contribute \$250 to Candidate Y's controlled committee and another \$250 to an independent expenditure committee formed to oppose Candidate Z, because that would be the equivalent of spending another \$250 to support candidate Y.

In summary, we opine that the words of the ordinance support the City Attorney's longstanding oral advice to you that: 1) Section 27.2941(a) prohibits an individual who contributes the maximum of \$250 to a single candidate in a mayoral run-off candidate from also contributing to any other individual or committee (or committees) that uses the contribution to make independent expenditures to support that same candidate; and 2) Section 27.2941(a) also prohibits an individual who contributes the maximum of \$250 to an individual or committee making independent expenditures in a two-candidate race from contributing to any other individual or committee making similar independent expenditures to influence the election to reach the same result.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

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Attachment

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